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EXAMINER

BRIER, JEFFERY A

ART UNIT

PAPER NUMBER

2672

DATE MAILED: 11/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/084,401

Applicant(s)

EVANS, LYNNE MARIE

Examiner

Jeffery A. Brier

Art Unit

2672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on 9/9/2005 has been entered. The amendments to the specification and to the drawings overcomes the drawing objections set forth in the 5/5/2005 office action as well as the objection to the specification.

### ***Response to Arguments***

2. Applicant's arguments filed 9/9/2005 have been fully considered but they are not persuasive.

The arguments and the 1.132 declaration concerning the common assignment of this application and the Gallivan reference is noted, however, they do not overcome the Gallivan reference for two main reasons:

- 1) The statement made by applicant does not make the correct statement, see MPEP 706.02(I)(3); and
- 2) The rejection is a 102 rejection, not a 103c rejection, thus even if the statement was correct it would be insufficient to overcome the rejection based upon Gallivan. Note MPEP 706.02(I)(3).

### **706.02(I)(3) Examination Procedure With Respect to 35 U.S.C. 103(c) [R-3]**

Examiners are reminded that a reference used in an anticipatory rejection under 35 U.S.C. **102(e)**, (f), or (g) is not disqualified as prior art if evidence is provided to show \*\*>that the reference is disqualified under 35 U.S.C. **103(c)**. Generally, such a< reference is only disqualified when  
(A) proper evidence is filed,

Art Unit: 2672

(B) the reference *only* qualifies as prior art under 35 U.S.C.

**102>(e),< (f) or (g) \*\* (e.g.,< not 35 U.S.C. 102(a) or (b))>, < and**

(C) the reference was used in an obviousness rejection under 35 U.S.C. **103(a)**.

Applications and patents will be considered to be owned by, or subject to an obligation of assignment to, the same person, at the time the invention was made, if the applicant(s) or an attorney or agent of record makes a statement to the effect that the application and the reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person(s) or organization(s). >In order to overcome a rejection under 35 U.S.C. **103(a)** based upon a reference which qualifies as prior art under only one or more of 35 U.S.C. **102(e)**, (f), or (g), via the CREATE Act, the applicant must comply with the statute and the rules of practice in effect.<

See MPEP § 706.02(l)(2) for additional information pertaining to establishing common ownership.

**Eighth Edition, August 2001    Latest Revision August 2005**

Therefore, the 102e rejection is maintained and modified to address applicants amendments to those claims.

The amendments to the claims do not fully overcome the previous 112 rejections.

Independent claims 1, 14, 28, and 36 continue to have second paragraph issues.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1:

At lines 3-5 this claim is not clear if the two dimensional visual display space is an abstract visualization or visualization on or by a display device.

At lines 8-10 this claim is not clear if the same anchor point is located on different edges or if different anchor points are each located at different edges.

The dependent claims of claim 1 do not correct these issues.

Claims 14, 28, and 36:

These claims have the same issues that claim 1 has and they are indefinite for the same reasons given for claim 1.

The dependent claims of these claims do not correct these issues.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 8-14, 21-32, 34-40, and 42-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Gallivan, U.S. Patent No. 6,778,995.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Gallivan teaches a system, method, and computer readable medium for storing a program for causing a computer to perform the method. The claimed “the anchor point located on at least one open edge that is formed as a point along an edge” makes the claim very broad and does not define what constitutes an open edge. Gallivan shows in figure 14 a cluster 193 attached to an open edge on cluster 195 along vector 205. Note the reference numbers used in this patent’s specification and figure 14 do not have a direct correlation. See column 9 line 53 to column 10 line 23.

Claim 1:

Gallivan teaches a system for generating a two-dimensional spatial arrangement of a multi-dimensional cluster rendering (*Refer to figure 14 and column 9 lines 61-66.*), comprising:

a set of stored clusters from a concept space comprising a multiplicity of clusters visualizing document content in a two-dimensional visual display space (*Column 2 line 3, column 5 lines 24-43, column 8 lines 54-56, and column 9 lines 61-67 describes and figure 14 illustrates two-dimensional visual space displaying clusters.* ) based on extracted terms (*See column 9 lines 13-42.*), each cluster in the clusters set sharing a common theme (*See column 10 lines 13-14.*) comprising shared terms;

a placement module determining an anchor point on at least one such cluster within the clusters set, the anchor point located on at least one open edge that is formed as a point along an edge of the at least one such cluster and on a vector defined from the center of the at least one such cluster (*Gallivan shows an anchor point where vector 205 intersects cluster 195 and where cluster 193 has a small, less than 20% overlap on cluster 195. Thus, this intersection is at an open edge on the displayed cluster's edge. The claim does not differentiate from that which is shown and taught by Gallivan, therefore, vector 205 and the edge of the cluster have located thereon the anchor point.*); and

arranging the clusters in the clusters set into an arrangement of adjacent clusters originating from the anchor point at one such open edge (*Clusters 193 and 195 of the cluster set are arranged originating from the anchor point at the open edge. Arguably*

*cluster 194 originates from the anchor point at the same open edge the cluster 193 originates from.).*

Claim 8:

Gallivan teaches a system according to claim 1, further comprising:  
a rendering module rendering each cluster as a circle having an independent radius (*Figure 14 shows the clusters rendered as circles. Column 10 line 19 describes the clusters as circular shape but also describes the clusters may be non-circular shaped.).*

Claim 9:

Gallivan teaches a system according to claim 8, wherein each circle has a volume dependent on a number of concepts contained in the cluster (*Column 10 line 22 discusses the clusters having volume. Column 10 lines 10-12 discusses the radii being relative to number of document contained in the cluster. Column 9 lines 43-52 and 65-66 discusses concepts within a cluster and clusters of concepts. Thus, Gallivan teaches a volume dependent on a number of concepts contained in the cluster.).*

Claim 10:

Gallivan teaches a system according to claim 1, further comprising:  
a rendering module rendering each cluster as a convex volume (*Column 10 line 22 discusses the clusters having convex volume.).*

Claim 11:

Gallivan teaches a system according to Claim 1, wherein the placement module determines a further anchor point located on at least one further open edge that is formed as a point along an edge of at least one further cluster within the clusters set and on a vector defined from the center of the at least one further cluster (*Taking cluster 193 as a first cluster then cluster 196 may be considered an additional cluster that is attached to a further anchor point.*), further comprising:

a grafting submodule grafting an additional arrangement originating from the further anchor point at the one further open edge (*Cluster 196 is an additional arrangement from a further anchor point.*).

Claim 12:

Gallivan teaches a system according to Claim 1, further comprising:

a grouping submodule placing each cluster having a theme different than the common theme within the two-dimensional visual display space (*See figures 13 and 14. Column 2 line 3, column 5 lines 24-43, column 8 lines 54-56, and column 9 lines 61-67 describes and figure 14 illustrates two-dimensional visual space displaying clusters.*).

Claim 13:

Gallivan teaches a system according to claim 1, wherein each convex shape represents visualized data for a virtual semantic concept space (*Column 9 line 61 to*

*column 10 line 22 teaches virtual semantic concept space and convex shape representing the cluster in the virtual semantic concept space.).*

Claims 14 and 21-26:

These method claims correspond to system claims 1 and 8-13 are rejected for the reasons given for the system claims since the system claims and the method claims claim the same function.

Claim 27:

This claim is a multiple dependent claim that is dependent upon rejected method claims 14 and 21-26. Gallivan teaches at column 5 line 60 to column 6 line 2 a computer readable medium storing source code causing the computer (CPU) to perform the method of claims 14 and 21-26.

Claim 28:

Gallivan teaches a system for arranging concept clusters in thematic relationship in a two-dimensional visual display space (*Refer to figure 14 and column 9 lines 61-66.*), comprising:

a plurality of stored clusters selected from a two-dimensional visual display space representing (*Column 2 line 3, column 5 lines 24-43, column 8 lines 54-56, and column 9 lines 61-67 describes and figure 14 illustrates two-dimensional visual space displaying clusters.*) a multi-dimensional visualization space sharing a common theme comprising

at least one concept (*See column 9 lines 13-42.*), each theme logically representing one or more concepts based on terms extracted from a document set (*See column 9 lines 61 to column 10 line 3 and column 10 lines 13-14.*);

a placement module combining in order each cluster not yet grouped from the selected clusters for the shared common theme into a list of placeable clusters (*Column 9 lines 33-42.*); and

grafting each clusters list into a grouping of one or more other clusters lists (*Column 9 lines 33-42*) at an anchor point located on an open edge formed as a point along an edge of one such cluster in the grouping and on a vector defined from the center of the one such cluster (*Gallivan shows an anchor point where vector 205 intersects cluster 195 and where cluster 193 has a small, less than 20% overlap on cluster 195. Thus, this intersection is at an open edge on the displayed cluster's edge. The claim does not differentiate from that which is shown and taught by Gallivan, therefore, vector 205 and the edge of the cluster have located thereon the anchor point.*), the clusters in each other clusters list sharing at least one concept represented in the shared common theme (*Column 10 lines 13-15 describes the clusters on the same vector having a shared common theme. Thus, the list of concepts for each of the clusters on the same vector share at least one concept.*).

Claim 29:

Gallivan teaches a system according to Claim 28, further comprising:  
a sort module sorting the clusters in each clusters list in sequence (*See figure 13.*).

Claim 30:

Gallivan teaches a system according to Claim 29, wherein the sequence comprises a number of documents containing the one or more logically represented Concepts (*See figure 13.*).

Claim 31:

Gallivan teaches a system according to Claim 29, wherein the sequence comprises one of ascending and descending order (*See figure 13.*).

Claim 32:

Gallivan teaches a system according to claim 28, wherein each cluster is formed as one of a circular and non-circular convex volume (*Figure 14 shows the clusters rendered as circles. Column 10 line 19 describes the clusters as circular shape but also describes the clusters may be non-circular shaped.*).

Claim 34:

Gallivan teaches a system according to claim 28, further comprising:  
a display and visualize module generating a visual display space containing the groupings of clusters lists (*Column 9 lines 61-65 teaches displaying the clusters in visual display space.*).

Claim 35:

Gallivan teaches a system according to Claim 28, wherein the theme contains concepts within a pre-specified range of variance (*Each cluster has a theme that contains concepts within a pre-specified range, see figure 13*).

Claims 36-40, 42 and 43:

These method claims correspond to system claims 28-32, 34 and 35 are rejected for the reasons given for the system claims since the system claims and the method claims claim the same function.

Claim 44:

This claim is a multiple dependent claim that is dependent upon rejected method claims 36-40, 42 and 43. Gallivan teaches at column 5 line 60 to column 6 line 2 a computer readable medium storing source code causing the computer (CPU) to perform the method of claims 36-40, 42 and 43.

7. A prior art rejection cannot be made claims 2-7, 15-20, 33, and 41 because the metes and bounds of claims 2-7, 15-20, 33, and 41 are not definite. Are the claims limited to arranging displayed clusters? Are the claims limited to arranging database items? If they are the latter then the Gallivan reference may even teach these claims. If they are the former then Gallivan still teach these claims. The arrangement of the clusters is not clear since the claims are not clear if the same anchor point is located on

different edges or if different anchor points are each located at different edges. Thus, an indication of allowability would be premature. In re Steele, 305 F.2d 859,134 USPQ 292 (CCPA 1962) (it is improper to rely on speculative assumptions regarding the meaning of a claim and then base a rejection under 35 U.S.C. 103 on these assumptions).

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A Brier whose telephone number is (571) 272-7656. The examiner can normally be reached on M-F from 7:00 to 3:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael

Art Unit: 2672

Razavi, can be reached at (571) 272-7664. The fax phone Number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jeffery A Brier  
Primary Examiner  
Art Unit 2672